

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 24-20546-CV-WILLIAMS

WINSTON MARACALLO,

Plaintiff,

v.

CUSANO AIR CONDITIONING &  
HEATING, INC., *et al.*,

Defendants.

/

**ORDER OF REFERRAL AND NOTICE OF COURT PRACTICE IN FLSA CASES**

**THIS MATTER** is before the Court *sua sponte*. Pursuant to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules for the Southern District of Florida, it is **ORDERED AND ADJUDGED** that all discovery disputes and non-dispositive pretrial motions are **REFERRED** to Magistrate Judge Jonathan Goodman. It is further **ORDERED** that the Parties shall adhere to the Federal Rules of Civil Procedure, the Local Rules for the Southern District of Florida, Judge Williams' Court Practices and Procedures, and Judge Goodman's Discovery Procedures. Judge Williams' Court Practices and Procedures and Judge Goodman's Discovery Procedures are available at the Court's website: <https://www.flsd.uscourts.gov/content/judge-kathleen-m-williams> and <https://www.flsd.uscourts.gov/content/judge-jonathan-goodman>.

Additionally, the Court notes that this is a Fair Labor Standards Act ("FLSA") case. Accordingly, to assist the Court in the management of the case, and in an effort to foster its early and cost-effective resolution, it is further ordered that the Parties must comply with the following requirements:

I. **Statement of Claim and Response**

- a. Plaintiff shall file a short Statement of Claim, setting forth the following:

- i. The rate of pay (e.g., hourly, daily, weekly, etc.) and, if other than hourly, the number of hours that the payment was intended to compensate;
  - ii. The total amount of alleged unpaid wages;
  - iii. The calculation of such wages (*i.e.*, number of hours multiplied by the rate of pay, along with corresponding exact dates such wages were earned);
  - iv. The nature of the wages (e.g., regular or overtime); *and*
  - v. The amount of attorneys' fees (hours and rate) incurred to date.
- b. The information shall be filed with the Court **WITHIN TEN (10) DAYS** from the date of this Order and must be set forth in the form of an easily readable chart. Additionally, Plaintiff shall **promptly** serve a copy of this Order, the Statement of Claim, and copies of all documents supporting Plaintiff's claims (e.g., time sheets, paystubs, etc.) to Defendants' counsel when Defendants' counsel first appears in this case, or at the time of filing the Statement of Claim if Defendants' counsel has already appeared in this case.
- c. **WITHIN FIFTEEN (15) DAYS** of receiving service of Plaintiff's Statement of Claim, Defendants shall file a response to Plaintiff's Statement of Claim ("**the Response**"), providing their own chart of the wages paid to Plaintiff during the same time periods that correspond to the information provided by Plaintiff in paragraph 1 above. Defendants shall also produce all payroll or other relevant documents (e.g., time sheets, paystubs, written agreements, work schedules, work logs, etc.) supporting the Response. If Defendants do not have any records regarding the number of hours worked by Plaintiff, Defendants shall provide their own estimate of the number of hours worked during each week for which unpaid wages are claimed. The Response must not contain any legal argument or citation to authority.

d. **NO LATER THAN FIVE (5) DAYS** after the close of discovery, Plaintiff shall file an Amended Statement of Claim. And **NO LATER THAN FIVE (5) DAYS** after Plaintiff files the Amended Statement of Claim, Defendants may file a response.

II. **Consent to Magistrate Judge, Referral for Settlement Conference, and Fairness Determination**

a. The Parties shall **promptly** confer to consider consenting to referring the Trial in this action to the assigned Magistrate Judge. Pursuant to Rule 1 of the Magistrate Rules of the Local Rules for the Southern District of Florida, if consent is not agreed to, the Court **COMPELS** the Parties to attend a Settlement Conference before the assigned Magistrate Judge **WITHIN FORTY-FIVE (45) DAYS** after the date that Defendants' Response to Plaintiff's Statement of Claim is due. **WITHIN FIVE (5) DAYS** after the date that Defendants' Response to Plaintiff's Statement of Claim is due, Plaintiff's counsel must confer with Defendants' counsel and contact the assigned Magistrate Judge's Chambers to schedule a date for the Settlement Conference. **The Settlement Conference may not be scheduled until all payroll documents are exchanged between the Parties and reviewed by Plaintiff's counsel with their client.** The assigned Magistrate Judge will enter an Order Scheduling Settlement Conference, outlining the time and requirements for the Settlement Conference. The Settlement Conference date must **NOT** be extended or rescheduled without prior approval from the assigned Magistrate Judge.

b. Except as provided until Local Rule 16.2.E for public-sector entities, the appearance of counsel and each Party or representatives for each Party with full authority to enter into a full and complete compromise and settlement is **MANDATORY**. Appearance shall be in person; telephonic appearance is

prohibited. If insurance is involved, an adjustor with authority up to the policy limits or the most recent demand—whichever is lower—shall attend.

- c. All discussions, representations, and statements made at the Settlement Conference will be confidential and privileged.
- d. The Parties are responsible for ensuring that **WITHIN SEVEN (7) DAYS** after the Settlement Conference, a report is filed that indicates whether: (1) the case settled (in full or in part); (2) the Settlement Conference was continued with the consent of the Parties (with information on when the Settlement Conference will be continued); or (3) an impasse was declared by the assigned Magistrate Judge.
- e. In all FLSA cases, if the case is resolved by way of settlement at the Settlement Conference, judicial review and approval of the settlement is necessary to give the settlement final and binding effect. See *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982). Accordingly, this matter is also **REFERRED** to the assigned Magistrate Judge to determine whether such settlement in this matter is “a fair and reasonable resolution of a bona fide dispute.” *Id.*

**III. Joint Scheduling Report**

- a. **WITHIN TWENTY (20) DAYS** from the date that the last Defendant responds to the Complaint, the Parties shall file a Joint Conference Report and a Joint Proposed Scheduling Order, as required by Local Rule 16.1(b). As part of that filing, the Parties shall complete and submit the form attached to this Order, proposing deadlines.

**IV. Noncompliance with this Order and the Court's rules**

- a. Noncompliance with any provision of this Order, the Federal Rules of Civil Procedure, the Local Rules for the Southern District of Florida, or this Court's Practices and Procedures may subject the offending Party to **sanctions**, including

the **dismissal** of this case. It is the duty of all counsel to take any and all actions necessary to comply with this Order, the aforementioned rules, and all Court orders.

**DONE AND ORDERED** in Chambers in Miami, Florida on this 20th day of February, 2024.



KATHLEEN M. WILLIAMS  
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. XX-XXXXX-CV-WILLIAMS**

PARTY NAME,

Plaintiff(s),

v.

PARTY NAME,

Defendant(s).

**SCHEDULE JOINTLY PROPOSED BY THE PARTIES**

THIS MATTER is set for trial for the week of [Month, Day, Year]. The Parties propose to adhere to the following schedule:

[Month, Day, Year] The Parties shall furnish their initial disclosures pursuant to Fed. R. Civ. P. 26. The Parties are under a continuing obligation to furnish supplements within ten (10) days of receipt or other notice of new or revised information.

[Month, Day, Year] The Parties shall file motions to amend pleadings or join Parties.

[Month, Day, Year] Plaintiff(s) shall disclose experts, expert witness summaries and reports, as required by Federal Rule of Civil Procedure 26(a)(2).

[Month, Day, Year] Defendant(s) shall disclose experts, expert witness summaries and reports, as required by Federal Rule of Civil Procedure 26(a)(2).

[Month, Day, Year] The Parties shall exchange rebuttal expert witness summaries and reports, as required by Fed. R. Civ. P. 26(a)(2).

[Month, Day, Year]	The Parties shall complete all discovery, including expert discovery.
[Month, Day, Year]	The Parties shall complete mediation and file a mediation report with the Court.
[Month, Day, Year]	The Parties shall file all dispositive pre-trial motions and memoranda of law. The Parties shall also file any motions to strike or exclude expert testimony, whether based on Fed. R. Evid. 702 and <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993), or any other basis.
[Month, Day, Year]	The Parties shall each file one motion <i>in limine</i> . All motions <i>in limine</i> must be filed at least six (6) weeks before Calendar Call.
[Month, Day, Year]	The Parties shall file their joint pretrial stipulation, witness lists, and exhibit lists in accordance with Local Rule 16.1(d) and (e). The Parties shall also file proposed jury instructions and a proposed verdict form, or statement of fact and conclusions of law (for non-jury trials).
[Month, Day, Year]	The Parties shall submit their deposition designations.

By:

[Attorney(s) for Plaintiff(s)]

[Attorney(s) for Defendant(s)]